TYPE II DEVELOPMENT & ENVIRONMENTAL REVIEW, STAFF REPORT & DECISION



Form DS1401

Project Name: HAZEL DELL SQUARE SHORT PLAT

Case Number: PLD2009-00021, SEPA2009-00036

Location: 7604 NE 5th Avenue

Request: The applicant is requesting to short plat approximately 4.26

acres into two commercial lots located in the General

Commercial (GC) zoning district.

Applicant: Hazel Dell Square, LLC

19767 SW 72nd Avenue, Suite 100

Tualatin, OR 97062

(503) 254-1976; E-mail: ryan@gramor.com

Contact Person: Olson Engineering, Inc.

Attn.: Mike Odren 1111 Broadway

Vancouver, WA 98660

(360)695-1385; E-mail: mikeo@olsonengr.com

Property Owner: Hazel Dell Square, LLC

19767 SW 72nd Avenue, Suite 100

Tualatin, OR 97062

DECISION

Approve; subject to Conditions

Team Leader's Initials:

Date Issued: July 31, 2009

County Review Staff:

	<u>Name</u>	Phone Ext.	E-mail Address
Team Leader:	Travis Goddard	4180	Travis.goddard@clark,wa,gov
Planner:	Michael Uduk	4385	Michael.uduk@clark.wa.gov
Engineer Supervisor: (Trans. & Stormwater):	Sue Stepan, P.E.	4102	Sue.stepan@clark.wa.gov
Engineer (Trans. & Stormwater):	David Bottamini, P. E.	4881	David.bottamini@clark.wa.gov
Engineering Supervisor: (Trans. Concurrency):	Steve Schulte, P. E.	4017	Steve.schulte@clark.wa.gov
Engineer (Trans. Concurrency):	David Jardin	4354	David.jardin@clark.wa.gov
Fire Marshal Office	Tom Scott	3323	Tom.scott@clark.wa.gov

General Commercial (GC) Comp Plan Designation:

Tax Lots 337 (148227), located in the NE 1/4 of Parcel Number(s):

Section 10, Township 2 North, Range 1 East of the

Willamette Meridian.

Applicable Laws:

Clark County Code Chapter 40.350 (Transportation), 40.350.020 (Transportation Concurrency), 40.380 (Storm Water Drainage and Erosion Control), 15.12 (Fire Code), 40.540.030 (Short Plat), 40.370.010 (D) (Public Sewer Connection), 40.370.020 (D) (Water Connection), 40.610 (Impact Fees), 40.230.010 (Commercial Districts, GC), 40.500 (Procedure), RCW 58.17 (State Platting Laws)

Neighborhood Association/Contact:

West Hazel Dell NA lla Stanek, President 500 NW Wildwood Vancouver, WA 98665 (360) 573-7376

E-mail: ilastanek@hotmail.com

NE Hazel Dell NA Bud Van Cleve, President 1407 NE 68th Street Vancouver, WA 98665 (360) 695-1466 BSVANC@aol.com

Time Limits:

The application was determined to be fully complete on May 19, 2009. Therefore, the County Code requirement for issuing a decision within 78 days would have lapsed on August 5, 2009. The State requirement for issuing a decision within 120 calendar days, lapses on September 16, 2009.

Vesting:

An application is reviewed against the subdivision, zoning, transportation, stormwater and other land development codes in effect at the time a fully complete application for preliminary approval is submitted. If a pre-application conference is required, the application shall earlier contingently vest on the date the fully complete pre-application is filed. Contingent vesting requires that a fully complete application for substantially the same proposal is filed within 180 calendar days of the date the county issues its pre-application conference report.

A pre-application conference on this matter was waived. There are no disputes regarding vesting in this matter.

Public Notice:

Notice of application and SEPA determination of non-significance was mailed to the applicant, West Hazel Dell and NE Hazel Dell Neighborhood Associations, and property owners within 300 feet of the site on June 2, 2009.

Public Comments:

None

Project Overview

The applicant is requesting a preliminary plat approval to short plat the westerly 4.26 acres of Hazel Dell Square into 2 commercial lots thereby creating a 41,391 square foot (0.95-acre), and a 139,488 square foot (3.2-acre) lot.

Hazel Dell Square was approved on January 20, 2006, as a 4-phased, 5-buiding commercial retail center, totaling 90,610 square feet. The development site is located on the southeastern corner of the intersection of NE 78th Street, and NE Hazel Dell Avenue, west of the I-5 freeway. The approximately 8.17 acre site is situated on both sides of NE 5th Avenue and was then zoned Highway Commercial (CH). The CG zoning district provides for several uses outright, conditionally or by review and approval.

¹ When the site plan was approved, the zoning on the property was Highway Commercial (CH). The CH zoning designation has been changed to General Commercial (CG) to conform to the General Commercial (GC) comprehensive plan designation for the district. The zone district from what the standards were when the property was zoned CH. The CG zoning designation will be used throughout this report.

The proposed short plat will create a 0.95-acre parcel for Building Pad 3, which was approved in the preliminary decision for a 7,160 square foot restaurant. Phases 1, 2 and 3 of Hazel Dell Square have been granted final site plan approval by the county; and, have been developed (or in the case of Phase 2, Building 1, is being developed) as described in the attached Exhibits A and B.

Staff Analysis

Staff first analyzed the proposal in light of the 16 topics from the Environmental Checklist (see list below). The purpose of this analysis was to identify any potential adverse environmental impacts that may occur without the benefit of protection found within existing ordinances.

1. Earth

2 Air

3. Water

4. Plants

5. Animals

6. Energy and Natural Resources

7. Environmental Health

8. Land and Shoreline Use

9. Housing

10. Aesthetics

11. Light and Glare

12. Recreation

13. Historic and Cultural Preservation

14. Transportation

15. Public Services

16. Utilities

Staff then reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts will be mitigated by the requirements of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period, and knowledge gained through a site visit.

Major Issues:

Only the major issues, errors in the development proposal, and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposed development comply with the applicable code requirements, and, therefore, are not discussed below.

LAND USE:

Finding 1

CCC 40.540.030 (Purpose) provides the general purpose statement for a short plat review, while CCC 40.530.040 (B) (C) & (D) provide the applicable short plat application submittal requirements and approval criteria. Subsection B specifically requires a preapplication conference, which, in this case was waived because staff had reviewed various development proposals on the site, and a new pre-application conference would have not provided new information that was not already know (or available). Subsection C provides information regarding submittal requirements necessary for a short plat

review, and Subsection D provides instructions regarding the approval criteria consistent with the standards discussed in CCC 40.540.040 (D).

Staff finds that the applicant has submitted all the items listed in the submittal package to comply with the minimum standard in the code. Staff also finds that approving the proposed short plats for the Hazel Dell Square Building Pad 3 is in the public interest, because the project, when completed, the 0.95-acre parcel will become a separate lot of record, and upon development, will provide short term construction employment opportunities to construction workers, and long term employment opportunities to the residents of Clark County. This finding does not require a condition of approval.

Lot Dimensional Standards in the GC District: Finding 2

A. The GC zone does not have a minimum and maximum lot area or lot dimensional requirements. However, proposed developments must comply with the development standards in Table 40.230.010-3 regarding building setback, lot coverage and building height as follows:

Table 2: Building Setback, Lot Coverage and Building Height (Table 40.230.010-3)				
Standards	General Commercial (GC)			
A. Minimum yard setbacks	Pursuant to buffering and screening standards contained in Chapter 40.320, Table 40.320.010-1			
B. Minimum yard setbacks adjacent to residential district	Pursuant to the screening and buffering standards contained in Chapter 40.320, Table 40.320.010-1, plus an additional ½ foot for each foot the building exceeds 20 feet in height to a maximum setback requirement of 40 feet. Buildings in excess of 20 feet may be stepped.			
C. Maximum building coverage	Maximum determined by compliance with screening and buffering standards contained in Chapter 40.320, Table 40.320.010-1 and the Stormwater and Erosion Control Ordinance (Chapter 40.380) and all other applicable standards.			
Maximum building height	None			

(See Condition D-1a)

- B. As proposed, the short plat will create:
 - i. A 0.95 acre (41,391 square foot) parcel identified as Lot 2 on the southeast corner of NE 78th Street and NE Hazel Dell Avenue. The proposed Lot 2 also contains a pad for Building 3 in the original Hazel Dell Square decision, which was identified as the location of a 7,160 square foot restaurant. The short plat does not propose a development different from the restaurant proposed in the

original decision. If the restaurant is constructed as proposed, then no additional review is required for planning and land use purposes because:

- a. Even though the short plat does not involve actual project review, staff finds that the 7,160 square foot restaurant will, at a minimum, require 38 off street parking spaces to serve its customers. Staff counted 51 off street parking spaces, two of which are identified as handicapped parking.²
- b. The potential adverse impacts from the restaurant were considered in the original decision for PSR2005-00076, SEP2005-00189 and EVR2005-00103. Potential adverse impacts were considered for traffic, stormwater, fire safety, and public health issues.
- d. Changes to the originally approved site plan for the proposed Lot 2 and Building 3 pad could result in additional review, if the change triggers any of the site plan review applicability standards in CCC40.520.040 (Site Plan Review) and CCC40.520.060 (Post Decision Review). (See Condition D-1b)

<u>Note:</u> A *de minimus* (or minor) change (e.g. a reduction of the total floor area of the restaurant resulting in lesser potential impacts will not require additional review); but, a change that substantially increases the need for off street parking could require additional review.

ii. The short plat will also create a larger 3.20 acre (139,488 square foot) parcel identified as Lot 1. Lot I of Hazel Dell Square Short Plat has two buildings that have been approved under final site plans, FSR2006-00008 and FSR2007-00006.

Conclusion (Land Use):

Staff finds that the proposed preliminary plat can comply with the applicable sections of Clark County Code, subject to the conditions of approval identified in this report.

ARCHAEOLOGY:

(See Standard Condition)

TRANSPORTATION:

Finding 1:

Development Engineering staff has reviewed the short plat application indicating that the applicant shall comply with all engineering findings and conditions associated with the original staff report, PSR2005-00076

² For the 51 off-street parking spaces provided, the handicapped parking spaces should actually be 3, one of which should be a van accessible space. Since this a short plat review, the applicant will need to address this issue during the final site plan prior to the construction of the restaurant.

Conclusion (Transportation):

Staff concludes that the proposed preliminary plan meets the applicable Transportation approval criteria; and recommends **approval** of this project subject to the conditions of approval.

TRANSPORTATION CONCURRENCY:

Finding 1:

Traffic impact fees will be calculated and imposed prior to the development of Lot 2.

STORMWATER:

Finding 1:

Development Engineering staff has reviewed the short plat application indicating that the applicant shall comply with all engineering findings and conditions associated with the original staff report, PSR2005-00076.

Conclusion (Stormwater):

Staff concludes that the proposed preliminary stormwater plan is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

FIRE PROTECTION:

To be reviewed during building construction on Lot 2.

IMPACT FEES:

Finding 1

Commercial developments are exempt from park and school impact fees. This development will have traffic impacts in the area; and, therefore will be assessed traffic impact fees for Hazel Dell Traffic Impact Fees District.

The following note shall be placed on the final plat stating that:

"In accordance with CCC 40.610, park, school and traffic impact fees shall be assessed on the 7,160 square foot restaurant building in the proposed Lot 2 as follows:

"None – Even though TIF was assessed, the assessed amount was not collected in the original decision because the applicant was granted credits for authorized improvements to public facilities in the county's capital improvement program."

SEPA DETERMINATION

As lead agency under the State Environmental Policy Act (SEPA) Rules [Chapter 197-11, Washington Administrative Code (WAC)], Clark County must determine if there are possible significant adverse environmental impacts associated with this proposal. The options include the following:

- DS = Determination of Significance (The impacts cannot be mitigated through conditions of approval and, therefore, require the preparation of an Environmental Impact Statement (EIS);
- MDNS = Mitigated Determination of Non-Significance (The impacts can be addressed through conditions of approval); or,
- **DNS** = **Determination of Non-Significance** (The impacts can be addressed by applying the County Code).

The likely SEPA determination of Non-Significance (DNS) in the Notice of Development Review Application issued on June 2, 2009, is hereby final.

SEPA APPEAL PROCESS:

An **appeal** of this SEPA determination and any required mitigation must be filed with the Department of Community Development within fourteen (14) calendar days from the date of this notice. The SEPA appeal fee is \$1,493.00.

A **procedural appeal** is an appeal of the determination (i.e., determination of significance, determination of non-significance, or mitigated determination of non-significance). A **substantive appeal** is an appeal of the conditions required to mitigate for probable significant issues not adequately addressed by existing County Code or other law.

Both the **procedural and substantive appeals** must be filed within fourteen (14) calendar days of this determination. Such appeals will be considered in the scheduled public hearing and decided by the Hearing Examiner in a subsequent written decision.

SEPA Appeals must be in writing and contain the following information:

- 1. The case number designated by the County and the name of the applicant;
- 2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030(H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
- 3. A brief statement describing why the SEPA determination is in error.

The decision of the Hearing Examiner on any SEPA <u>procedural</u> appeal can not be appealed to the Board of County Commissioners, but must pursue judicial review.

Staff Contact Person: Michael Uduk, (360) 397-2375, ext. 4385

Travis Goddard, (360) 397-2375, ext. 4180

Responsible Official: Michael V. Butts, Development Services Manager

DECISION

Based upon the proposed plan (identified as Exhibit 1), and the findings and conclusions stated above, the Development Services Manager hereby **Approves** this request; subject to the understanding that the applicant is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval:

CONDITIONS OF APPROVAL

A Final Construction Review for Land Division Review & Approval Authority: Development Engineering

Prior to construction, a Final Construction Plan shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

A-1 Erosion Control Plan:

The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.380.

A-2 Excavation and Grading:

Excavation / grading shall be performed in compliance with CCC Chapter 14.07.

B Prior to Construction of Development Review & Approval Authority: Development Inspection

Prior to construction, the following conditions shall be met:

B-1 Water & Sewer Connection:

See the conditions in the original site plan review decision of January 20, 2006.

B-2 Erosion Control:

Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists. (Standard Condition)

B-3 Erosion Control:

Erosion control facilities shall <u>not</u> be removed without County approval. (Standard Condition)

C Provisional Acceptance of Development Review & Approval Authority: Development Inspection

Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction plans and the following conditions of approval:

C-1 None

D Final Plat Review & Recording Review & Approval Authority: Development Engineering

Prior to final plat approval and recording, the following conditions shall be met:

D-1 Land Use:

- a. The proposed development on Lot 2, shall comply with the applicable development standards in the GC zoning district regarding building setbacks, lot coverage and building height per Table 40.230.010-3, and the design standards in Appendix C of Title 40. (See Land Use Finding 2A)
- b. Additional Type II site plan or post decision review shall be required, if a change is proposed to the 7,160 square foot restaurant on Lot 2, Building Pad 3 of Hazel Dell Square that triggers any of the site plan review or post decision review applicability standards in CCC 40.520.040 (Site Plan Review or CCC 40.520.060 (Post Decision Review). (See Land Use Finding 2B.i.d)

Note: A *de minimus* (or minor) change (e.g. a reduction of the total floor area of the restaurant resulting in lesser potential impacts will not require additional review); but, a change that substantially increases the need for off street parking could require additional review.

D-2 Developer Covenant:

A "Developer Covenant to Clark County" shall be submitted for recording to include the following:

a. Critical Aquifer Recharge Areas:

"The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."

b. Erosion Control:

"Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."

c. Impact Fees:

See the conditions in the original site plan review decision of January 20, 2006.

D-3 Plat Notes:

The following notes shall be placed on the final plat:

a. <u>Archaeological</u> (all plats): "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

D-4 Fire Protection - Fire Marshal's Requirements:

a. See the conditions in the original site plan review decision of January 20, 2006.

E Building Permits

Review & Approval Authority: Customer Service

Prior to issuance of a building permit, the following conditions shall be met:

E-1 Impact Fees:

See the conditions in the original site plan review decision of January 20, 2006.

F Occupancy Permits

Review & Approval Authority: Building

Prior to issuance of an occupancy permit, the following conditions shall be met:

- F-1 See the conditions in the original site plan review decision of January 20, 2006.
- G Development Review Timelines & Advisory Information Review & Approval Authority: None Advisory to Applicant

G-1 Land Division:

Within 5 years of preliminary plan approval, a Fully Complete application for Final Plat review shall be submitted.

G-2 Department of Ecology Permit for Construction Stormwater:

A permit from the Department of Ecology (DOE) is required If:

• The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; AND

 There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one acre threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. The applicant shall Contact the DOE for further information.

G-3 Building Elevation Approvals:

Approval of building elevations submitted for preliminary plan review does not ensure compliance with other requirements (e.g., building setbacks) under other construction codes. Compliance with other construction codes is the responsibility of the applicant at the time of building permit issuance.

H Post Development Requirements Review & Approval Authority: As specified below

H-1 None

Note: The Development Services Manager reserves the right to provide additional comment and findings of fact regarding this decision, if appealed.

Decision Appeal Process:

An **appeal** of any aspect of this decision may be appealed to the County Hearing Examiner only by a party of record. A "Party of Record" includes the applicant and those individuals who submitted written testimony to the Development Service Manager within the designated comment period.

The appeal shall be filed with the Department of Community Development, Permit Services Center, 1300 Franklin Street, Vancouver, Washington, 98668, within fourteen (14) calendar days from the date the notice of final land use decision is mailed to parties of record. This decision was mailed on July 31, 2009. Therefore any appeal must be received in this office by 4:30 PM, August 14, 2009.

Appeal Deadline

4:30 PM, August 14, 2009

Any appeal of the final land use decisions shall be in writing and contain the following:

- Case number designated by the County;
- Name of the applicant;
- Name of each petitioner;
- Signature of each petitioner or his or her duly authorized representative;

- A statement showing the following:
 - That each petitioner is entitled to file the appeal as an interested party in accordance with CCC 40.510.030(H);
 - o The specific aspect(s) of the decision being appealed;
 - o The reasons why each aspect is in error as a matter of fact or law;
 - o The evidence relied on to prove the error; and,
- The appeal fee of \$5,240.00 (includes Development Engineering Fees of \$414.00.)

The fee shall be refunded if the appeal is withdrawn in writing by the petitioner at least 15 calendar days before the public meeting to consider the appeal.

Attachments:

- Exhibit A: Copy of Proposed Preliminary Plan
- Exhibit B: Copy of the original site plan

A copy of the approved preliminary plan, SEPA Checklist and Clark County Code are available for review at:

Public Service Center
Department of Community Development
1300 Franklin Street
P.O. Box 9810
Vancouver, WA. 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011

A copy of the Clark County Code is also available on our Web Page at: Web Page at: http://www.clark.wa.gov

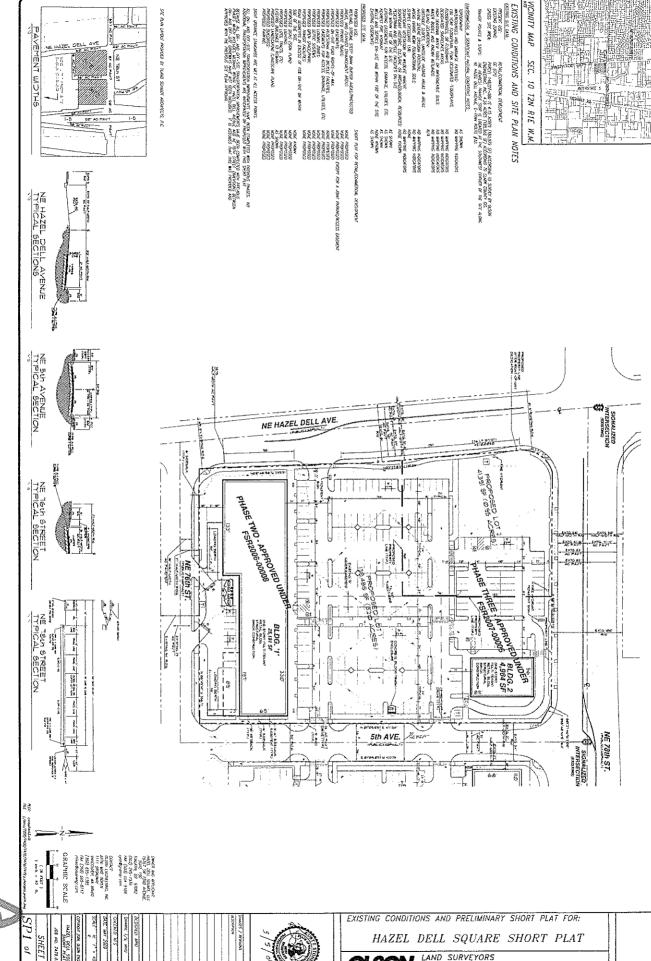
Final Decision Attachment

For Employee Use Only -This is not part of the decision, but rather an attachment for processing purposes only.

Final Plans Required with Construction I	Plans YES NO
Final Landscape Plan:	
-On-site landscape plan	
-Right-of-way landscape plan*	
Final Wetland Plan	
Final Habitat Plan	

^{*}Final right-of-way landscape plan required for projects fronting on arterial and collector streets.

<u>Note</u>: If final plan submittals are required, list each plan under Case Notes in Permit Plan for future reference.



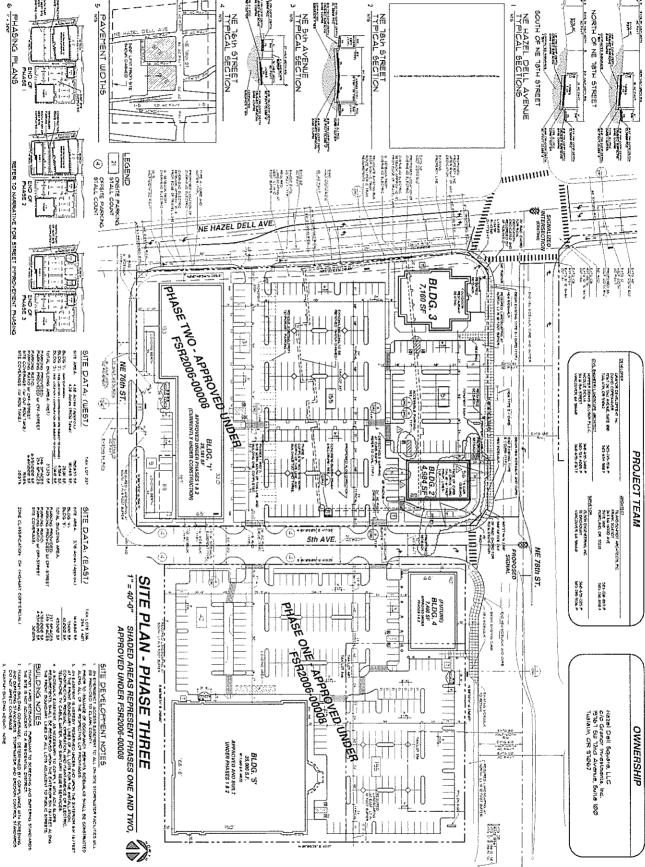




LAND SURVEYORS
ENGINEERS
ENGINEERING INC. 1111 BROADWAY, VANCOUVER, WA 98660







DELL SQUARE - SITE PLAN

NE HAZEL DELL AVE/ NE 78th STREET
VANCOUVER, WASHINGTON HAZEL DELL

GRAMOR DEVELOPMENT, Inc.

TILAND /
6 CHMIDT
ARCHITECTA PL
348 MLCOD AVE.
348